

**Before the
Federal Communications Commission
Washington, D. C. 20554**

In the Matter of)	
)	
Qwest Communications International, Inc.)	
)	
Consolidated Application for Authority to Provide)	WC Docket 02-314
In-Region, InterLATA Services in Colorado, Idaho,)	
Iowa, Montana, Nebraska, North Dakota, Utah,)	
Washington and Wyoming)	

**Comments of the Wyoming Public Service Commission
(Issued October 15, 2002)**

The Wyoming Public Service Commission (Wyoming PSC) hereby provides its comments to the Federal Communications Commission (Commission) on the extent to which Qwest Communications International, Inc. (Qwest) is in compliance with the requirements of Subsection 271(c) of the federal Telecommunications Act of 1996 (the federal Act) for the purpose of facilitating a determination by the Commission on whether Qwest should be granted authority to provide in-region, interLATA services in Wyoming under Section 271(d)(3) of the federal Act. Qwest filed its Consolidated Application with the Commission on September 30, 2002, for authority to provide in-region, interLATA services (the Consolidated Application). Our information and comments are presented to the Commission under Section 271(d)(2)(B) of the federal Act.

Adoption of Previous Comments

1. Qwest's earlier application to the Commission for authority to provide in-region, interLATA services in Wyoming was made on July 12, 2002, in WC Docket 02-189. In that docket, the Wyoming PSC issued its Comments of the Wyoming Public Service Commission on August 1, 2002, stating therein, at ¶38, that:

“We conclude that Qwest has in general met the criteria established in and under the federal Act required for approval by the Commission of Qwest's Application in the above-captioned proceeding as far as it concerns the offering by Qwest of in-region, interLATA service in Wyoming. The Wyoming PSC

therefore recommends to the Commission that it decide the form the Wyoming QPAP should take, and thereupon approve Qwest's Application."

The Wyoming PSC hereby incorporates herein by reference the entirety of its August 1, 2002, Comments, explicitly including all of the attachments thereto.

2. In WC Docket 02-189, the Wyoming PSC issued the Reply Comments of the Wyoming Public Service Commission on August 26, 2002, concluding that Qwest's UNE rates in Wyoming are appropriately cost-based under the Commission's TELRIC methodology and again encouraging the Commission to grant Qwest's application with respect to Wyoming. The Wyoming PSC hereby incorporates herein by reference the entirety of its August 26, 2002, Reply Comments, explicitly including all of the attachments thereto.

3. By its August 29, 2002, Public Notice DA 02-2129 in WC Dockets 02-148 and 02-189, the two Qwest applications for relief under Section 271(d)(3) of the federal Act then pending, the Commission sought comments concerning Qwest's compliance with the separate affiliate requirements of Section 272 of the federal Act. In response thereto, the Wyoming PSC issued its Comments of the Wyoming Public Service Commission on September 4, 2002, therein reiterating its recommendation that the Commission approve Qwest's application for relief, and describing in detail the investigation and proceedings undertaken in Wyoming on the subject. The Wyoming PSC hereby incorporates herein by reference the entirety of its September 4, 2002 Comments.

General Comment

4. The Wyoming PSC reiterates here its strong support for Qwest's request to be allowed to provide in-region, interLATA services in Wyoming under Section 271(d)(3) of the federal Act. Our examination of the facts and issues presented by the above-captioned Consolidated Application has, if anything, strengthened our earlier conviction that Qwest's Application should be granted. We also make this comment in light of the enormous quantity of work already done by the Wyoming PSC, by Qwest and by the other parties in examining and testing all of the requirements Qwest should meet to open its Wyoming local service markets fairly and completely to competition. With the limited number of new issues presented in the Consolidated Application and because much of the Consolidated Application builds upon and in

many cases provides positive updates for facts, statistics and issues already thoroughly considered in the past, our expectation is that we will play a relatively minor role in this proceeding. However, the Wyoming PSC will be pleased to respond further on any subject if the Commission deems it necessary.

AT&T Motion to Reopen Wyoming Proceedings

5. AT&T Communications of the Mountain States, Inc. (AT&T) filed with the Wyoming PSC a Motion to Reopen and Supplement the Record in Docket No. 70000-TA-00-599 (the Wyoming proceeding considering Qwest's bid for Section 271 relief). AT&T argued that the issue of Qwest's compliance with Section 272 of the federal Act should be reexamined in Wyoming. Qwest opposed AT&T's Motion, and the Wyoming PSC held oral arguments on October 10, 2002. The Commission denied AT&T's Motion, finding that there were adequate safeguards in place in the Commission's proceedings to protect the public and noting that the facts found adequate in our examination of Qwest Communications Corporation (QCC) were specifically brought forward by Qwest in the Consolidated Application to apply to Qwest Long Distance (QLD), the newly created affiliate. The Wyoming PSC found that no further Wyoming examination is required on this issue.

The Creation of PO-20

6. Qwest unilaterally applied to the Wyoming PSC for authority to add a Tier 2 performance indicator definition (PID) concerning manual service order processing to its Wyoming Statement of Generally Available Terms (SGAT) for use with the related Qwest Performance Assurance Plan (QPAP). This PO-20 would cover a subject not specifically included in the SGAT PID documentation and would, theoretically, increase the protection afforded to competitive local exchange carriers (CLECs). The Wyoming PSC held oral arguments on PO-20 on October 10, 2002, with Qwest, AT&T, Worldcom and Contact Communications appearing and presenting their views. Criticism included the allegation that PO-20 was not sufficiently comprehensive and that it would require work before it could be made useful. This particular PID was not developed in the collaborative process intended, *inter alia*, for such development. The Wyoming PSC rejected the Application, directing instead that

the parties use established processes to work together to develop a mutually acceptable PO-20 PID for later possible inclusion in the Wyoming SGAT.

Unfiled Agreements

7. Much controversy has surrounded the allegedly “secret deals” between Qwest and CLECs. Qwest applied to the Commission for guidance as to what would constitute an “interconnection agreement” that should be filed with state commissions for approval under Section 252(e) of the federal Act. In the meantime, Qwest filed with the Wyoming PSC a group of “unfiled” agreements, three with McLeodUSA and one with Covad Communications, for approval with the Wyoming PSC in Docket Nos. 70000-TK-02-822, (Qwest Corporation), 70023-TK-02-48 (McLeodUSA), and 70071-TK-02-3 (Covad Communications). Thereafter on October 4, 2002, the Commission released its Memorandum Opinion and Order in WC Docket No. 02-89 giving guidance on the agreements which must be filed with state regulatory commissions. On October 10, 2002, the Wyoming PSC held oral arguments on the unfiled agreements, including [i] the impact of the Commission’s October 4, 2002, Order, [ii] the existence of possible discriminatory provisions in the agreements, [iii] the need for further information from Qwest on the status of specific provisions of the agreements, and [iv] what further action should be taken. The Commission staff, AT&T, Worldcom, Qwest, and Contact Communications provided argument on the subject. The Wyoming PSC required Qwest to file related documentation which would add clarity to the substance of the agreements. What we said before, in our August 1, 2002, Comments in WC Docket 02-189, ¶37, remains true. There has been no evidence brought forward that any agreement unfiled in Wyoming or elsewhere has had any specific adverse effect on Wyoming. Therefore, the entire package of agreements and additional documentation will be noticed for public review, comment and further action by the Wyoming PSC under the normal procedure and deadlines set out in Section 252(e) of the federal Act.

Qwest’s Section 272 Affiliate

8. In the Consolidated Application, Qwest proposes that QLD, its newly created affiliate, replace QCC as its independent Section 272 affiliate. QLD would not have the beginning balance sheet problems which caused concern with the ability of QCC to comply with

Generally Accepted Accounting Principles (GAAP). The Wyoming PSC Comments, adopted by reference above, illustrate our detailed analyses of the Qwest Section 272 affiliate. We concluded that the affiliate was well enough structured to be able to comply with the requirements of Section 272 and that the attendant safeguards in place would give the Commission and the Wyoming PSC ample opportunity to audit and otherwise monitor the affiliate to ensure its, and Qwest's, continuing compliance with the pro-competitive structural and transactional requirements and safeguards of Section 272. In its Consolidated Application in this case, Qwest has brought forward all of the facts and data in the record of its previous filings concerning its long distance affiliate and would apply those same considerations in the context of QLD, the newly created affiliate. After examination of the Consolidated Application and the material brought forward into the record of this case, we are convinced that it presents an even stronger case for compliance and approval than before, with the GAAP accounting problem having been obviated by the newly created affiliate.

Updated Wyoming Performance and Market Share Data

9. The Consolidated Application updates Qwest's Wyoming performance and CLEC market share data through August 2002. We have reviewed these performance statistics and find that Qwest has, on balance, maintained or improved its overall performance in Wyoming.

Qwest's updated data on CLEC activity in Wyoming shows increases in CLEC collocations, Local Interconnection Service (LIS) trunks in service, and stand alone unbundled loops in service. There was a slight decrease in the number of UNE-P lines in service. The updated CLEC market share data for Wyoming shows that CLECs have captured between 11.6% and 15.1% of Qwest's overall access lines in Wyoming. These estimation methods, applied previously and discussed in our August 1, 2002, Comments in WC Docket 02-189 at ¶10.c, showed the analogous CLEC market shares in Wyoming to be from 10.8% to 14.4%. These statistics tend to indicate that Qwest's local service markets in Wyoming remain open to competitive entry.

The performance results for Qwest in Wyoming continue to show that it is providing interconnection, collocation, unbundled network elements, resale services, operator services, directory listings, databases and signaling, and repair and maintenance to CLECs at acceptable

levels of performance whether measured by parity or benchmark standards. Qwest is sustaining its efforts to provide a satisfactory level of performance in this complex undertaking.

Conclusion

10. We remain convinced that the QPAP suggested by Qwest is inadequate for use in Wyoming, and we urge the Commission to include a decision on the QPAP issue in its decision on this Consolidated Application. With that in mind, we conclude that Qwest has in general met, and in many ways exceeded, the criteria established in and under the federal Act required for approval by the Commission of Qwest's Consolidated Application in the above-captioned proceeding as far as it concerns the offering by Qwest of in-region, interLATA service in Wyoming. We are of the opinion that the Consolidated Application is, if anything, stronger and more persuasive than its predecessor. The Wyoming PSC therefore recommends to the Commission that it decide the form the Wyoming QPAP should take, and thereupon approve Qwest's Application.

MADE and ENTERED at Cheyenne, Wyoming, on October 15, 2002.

PUBLIC SERVICE COMMISSION OF WYOMING

STEVE ELLENBECKER, Chairman

STEVE FURTNEY, Deputy Chair

KRISTIN H. LEE, Commissioner

(SEAL)
Attest:

STEPHEN G. OXLEY, Secretary and Chief Counsel

**Certificate of Service regarding the
Comments of the Wyoming Public Service Commission
(Dated October 15, 2002)**

I, Stephen G. Oxley, hereby certify that, on October 15, 2002, I served true and complete copies of the Comments of the Wyoming Public Service Commission on the Federal Communications Commission (Commission) as directed by the Commission's September 30, 2002, Public Notice in the above-captioned proceedings, by e-mail and the Commission's ECFS system. On this day, I also provided courtesy copies to Qwest Corporation and to all persons designated to receive such copies according to the Public Notice.

October 15, 2002

STEPHEN G. OXLEY
Secretary and Chief Counsel
Wyoming Public Service Commission
2515 Warren Avenue, Suite 300
Cheyenne, Wyoming 82002

[307] 777-7427